

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

STATE OF CALIFORNIA, et al.,

Plaintiffs,

v.

HEALTH AND HUMAN SERVICES, et
al.,

Defendants.

Case No. [17-cv-05783-HSG](#)

**ORDER DENYING ADMINISTRATIVE
MOTION TO LIFT STAY**

Re: Dkt. No. 152

Pursuant to the parties' stipulation, the Court stayed this case on March 8, 2018, pending resolution of the Defendants' appeals. *See* Dkt. No. 147. On November 30, Plaintiffs moved to lift the stay, seeking to amend their complaint to challenge the forthcoming final rules. *See* Dkt. No. 152 ("Mot.") at 3. Defendant-Intervenor Little Sisters of the Poor filed an opposition on December 5. *See* Dkt. No. 155 ("Opp."). Neither the federal defendants nor Defendant-Intervenor March for Life Education and Defense Fund filed a response. On December 12, the Court held a case management conference with all parties to discuss the administrative motion.


"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56, 58 (1982). But the district court retains jurisdiction over matters other than "the particular issues involved in [the] appeal." *City of Los Angeles, Harbor Div. v. Santa Monica Baykeeper*, 254 F.3d 882, 886 (9th Cir. 2001).

Lifting the stay at this time would be improper, because the Ninth Circuit is currently considering Defendants' and Intervenor's appeal of this Court's preliminary injunction order. *See State of California, et al v. Alex Azar, II, et al*, No. 18-15255 (9th Cir. filed Feb. 16, 2018). And

1 not only is the Ninth Circuit reviewing Plaintiffs' standing and other issues decided by this Court's
2 order, but it also recently ordered supplemental briefing on the status of the rules and whether the
3 case will be mooted by the issuance of final rules. *See Order, State of California, et al v. Alex*
4 *Azar, II, et al*, No. 18-15255 (9th Cir. Oct. 25, 2018), Dkt. No. 124. The parties' responses in the
5 Ninth Circuit make clear that they continue to disagree as to the mootness issue. *See id.*, Dkt. Nos.
6 133, 137, 138, 139. Considering the broad scope of issues currently before the Ninth Circuit, this
7 Court finds that it does not have jurisdiction to lift the stay for the purposes articulated by
8 Plaintiffs and thus **DENIES** their motion.

9 **IT IS SO ORDERED.**

10 Dated: 12/13/2018

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12 HAYWOOD S. GILLIAM, JR.
13 United States District Judge
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